

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 98-0527 MVE
MOTOR VEHICLE EXCISE TAX
FOR TAX PERIOD: 1995 THROUGH 10/31/97**

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ISSUE

I. Motor Vehicle Excise Tax: Imposition

Authority: IC 9-13-2-78, IC 9-18-2-1

Taxpayers protest the imposition of the motor vehicle excise tax on their 1993 Ford.

II. Motor Vehicle Excise Tax: Imposition

Authority: IC 9-13-2-78, IC 9-18-2-1

Taxpayers protest the imposition of the motor vehicle excise tax on their 1995 Mercury.

STATEMENT OF FACTS

Taxpayers claim that they were residents under Missouri law for the years in question and paid motor vehicle excise tax for these years to the state of Missouri. More facts will be provided as necessary.

I. Motor Vehicle Excise Tax Imposition on 1993 Ford

DISCUSSION

The husband and wife both were living and working in Missouri in 1995. The husband worked as a High School teacher/computer administrator in Missouri until November 1995. He started working in December of 1995 as a consulting engineer in Indiana on a temporary basis. His employment contract was to only last for three (3) months but it was renewed continually for 1996. He obtained an apartment in Indiana and commuted back to Missouri every weekend.

Pursuant to Indiana Code section 9-18-2-1:

Within sixty (60) days of becoming an Indiana resident, a person must register all motor vehicles owned by the person that:

are subject to the motor vehicle excise tax under IC 6-6-5; and
will be operated in Indiana.

Taxpayer claims he was not a resident throughout the assessment period, and therefore, he was not required to register the vehicle in Indiana. Taxpayer cites Indiana Code section 9-13-2-78 which defines Indiana resident as a person who is one of the following, "A person who has been living in Indiana for at least one hundred eighty-three (183) days during a calendar year and who has a legal residence in another state."

The taxpayer filed part year non-resident returns and claimed the renter's deduction. The taxpayer has been living and working in Indiana since December of 1995. He does travel home for the weekends but still is residing in Indiana for over one hundred eighty-three (183) days during a calendar year. Thus, he is an Indiana resident and owes the motor vehicle excise tax starting December of 1995.

FINDING

Taxpayer's protest is partially sustained and partially denied. The taxpayer does not owe excise tax for 1995, however, the tax is due starting December 31, 1995.

II. Motor Vehicle Excise Tax Imposition

DISCUSSION

The taxpayer's wife and daughter lived in and was a resident of Missouri until August 1997 when she moved here to join her husband in Indiana. At no time did she live in Indiana during 1995 and 1996.

FINDING

The taxpayer's protest is sustained until August of 1997. The taxpayer owed Motor Vehicle Excise Tax on her 1995 Mercury starting in August of 1997.